

Senate Bill No. 657

Passed the Senate September 7, 2005

Secretary of the Senate

Passed the Assembly August 31, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 60227 and 60242 of, and to add Section 60200.1 to, the Education Code, relating to instruction, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 657, Escutia. Instructional materials.

Existing law requires the State Board of Education to adopt at least 5 separate basic instructional materials, as defined, for use in kindergarten and each of grades 1 to 8, inclusive, in language arts, mathematics, science, social science, bilingual or bicultural subjects, and any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable. Existing law requires the state board to ensure that basic instructional materials meet certain specified criteria.

Existing law establishes the State Instructional Materials Fund and continuously appropriates the money in the fund to the State Department of Education. Existing law authorizes a school district to use allowances received from the fund to purchase instructional materials adopted by the state board, to purchase instructional materials from any source, to purchase tests, to bind basic textbooks, to fund in-service training related to instructional materials, and to purchase classroom library materials for kindergarten and grades 1 to 4, inclusive.

Existing law, until January 1, 2007, requires the State Department of Education, prior to conducting a followup adoption, to notify all publishers and manufacturers known to produce basic instructional materials in that subject that a fee will be assessed based on the number of programs the publisher or manufacturer indicates will be submitted. Existing law continuously appropriates to the department the revenue derived from this fee and makes the revenue available to the department from year to year until expended.

This bill would extend the operation of these provisions to January 1, 2008, and would require the state board to annually solicit recommendations from school districts regarding the adoption of instructional materials. The bill would permit a

school district or county office of education that recommends instructional materials to use those materials, as specified, unless the state board, within 180 calendar days, makes written factual findings that the instructional materials lack certain specified criteria. The bill would also require the state board to consider whether to adopt, and make a determination as to whether to adopt, those instructional materials within one year of the receipt of the school district recommendation of adoption. The bill would also provide that if the state board does not make a determination with respect to the adoption of the instructional materials within one year of the school district recommendation, those instructional materials would be deemed to be adopted for 4 years, or until the next regular adoption of materials in that category, whichever comes later. The bill would, in addition, require the followup adoption fee to be based on instructional materials reviewed pursuant to these provisions.

This bill would also authorize a school district to use allowances received from the fund to purchase instructional materials adopted by the state board after recommendation by a school district. By expanding the purposes for which moneys from the fund may be used, the bill would make an appropriation.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. (a) It is the intent of the Legislature to provide to local educational agencies a process that is consistent with the implementation of standards-based reforms and the principle of local control and by which they may identify, evaluate, and recommend instructional materials to the State Board of Education. The Legislature recognizes that a local educational agency must possess both the authority and responsibility to provide quality education for all pupils and be held accountable for the results of those efforts. The alternative process established by this act is intended to supplement, rather than replace, the instructional materials adoption process.

(b) The evaluation and review process of instructional materials is an opportunity for a local educational agency to create support and focus among teachers, administrators, the governing board, and parents. This alternative process can meet

or exceed the depth and rigor of the process currently used by the State Board of Education in its evaluation and selection of instructional materials.

(c) Because a local educational agency will invest considerable fiscal, human, and educational resources in recommending instructional materials to the State Board of Education, it is the intent of the Legislature to accord deference to those recommendations by requiring the State Board of Education to review the recommendations based strictly and solely on the criteria identified in Section 60200.1 of the Education Code.

SEC. 2. Section 60200.1 is added to the Education Code, to read:

60200.1. (a) Commencing January 1, 2007, the state board shall annually solicit recommendations from school districts regarding the adoption of instructional materials in those categories enumerated in subdivision (a) of Section 60200 and in English language development.

(b) A school district that recommends instructional materials for adoption pursuant to subdivision (a) may use those instructional materials, consistent with subdivision (c), as if the materials were adopted pursuant to Section 60200, unless the state board, within 180 calendar days, makes written factual findings specific to the particular instructional materials, setting forth specific facts regarding the absence of any of the following:

(1) Alignment of the instructional materials to standards adopted by the state board for the category and grade level in which the instructional materials are to be used.

(2) A map demonstrating the full alignment of the recommended materials to the relevant grade level, state adopted content standards, and curriculum frameworks.

(3) A basis of scientific evidence supporting the content and approach of the instructional materials. That evidence may include research studies conducted by the publisher that have been independently reviewed, evidence from federal clearinghouses, or refereed academic journals.

(4) A narrative of the evaluation or piloting process, or both, of the school district, that led to the recommendation of the instructional materials, and an explanation for the

recommendation of the school district that the instructional materials are desirable and appropriate for use.

(5) A resolution of the governing board of the school district, adopted in a public hearing, that approves of the use of the instructional materials.

(6) Documentation from the publisher or manufacturer of the instructional materials of compliance with the state board's guidelines for social content.

(c) Instructional materials recommended by a school district pursuant to this section shall, when submitted to the state board, meet the criteria specified in paragraphs (1) to (5), inclusive, of subdivision (c) of Section 60200 and any other criteria as may be established by the state board as being necessary to accomplish the intent of Section 7.5 of Article IX of the California Constitution.

(d) Within one year of the receipt of a school district recommendation of adoption of instructional materials made pursuant to this section, the state board shall, pursuant to Section 60200 or 60227, consider whether to adopt, and make a determination as to whether to adopt, those instructional materials. If the state board does not make a determination with respect to the adoption of those instructional materials within one year of the school district recommendation, those instructional materials shall be deemed to be adopted for four years, or until the next regular adoption of materials in that category, whichever comes later.

(e) This section does not exempt a publisher or manufacturer of instructional materials from the requirements or provisions of this part.

(f) (1) The exclusive representative of certificated employees has the right to consult with the governing board regarding the selection of instructional materials to be recommended for adoption.

(2) A majority of a review committee convened by a school district for the purpose of the selection of instructional materials to be recommended for adoption shall be comprised of classroom teachers serving pupils in the grade in which the instructional materials are to be used.

(g) (1) For purposes of this section, "school district" means a school district or a county office of education.

(2) For purposes of this section, “instructional materials” includes textbooks, instructional technology, supplementary materials, or a grouping of two or more of these types of instructional materials from one or more source or publisher.

SEC. 3. Section 60227 of the Education Code is amended to read:

60227. (a) For purposes of this section, a followup adoption is any adoption other than the primary adoption that occurs within a six- or eight-year cycle established pursuant to subdivision (b) of Section 60200.

(b) Before conducting a followup adoption in a given subject, the department shall provide notice, pursuant to subdivision (c), to all publishers or manufacturers known to produce basic instructional materials in that subject, post an appropriate notice on the department’s Internet site, and take other reasonable measures to ensure that appropriate notice is widely circulated to potentially interested publishers and manufacturers.

(c) The notice shall specify that each publisher or manufacturer choosing to participate in the followup adoption shall be assessed a fee based upon the number of programs the publisher or manufacturer indicates will be submitted for review and the number of grade levels proposed to be covered by each program. A fee shall also be based on the cost of review of instructional materials conducted pursuant to subdivision (b) of Section 60200.1, if applicable.

(d) The fee shall offset the cost of conducting the followup adoption process and shall reflect the department’s best estimate of the cost. The department shall take reasonable steps to limit costs of the followup adoption and to keep the fee modest, recognizing that some of the work necessary for the primary adoption need not be duplicated.

(e) The department, prior to incurring substantial costs for the followup adoption, shall require that a publisher or manufacturer who wishes to participate in the followup adoption first declare the intent to submit one or more specific programs for the followup adoption and specify the specific grade levels to be covered by each program. After a publisher or manufacturer has declared the intent to submit one or more programs and the grade levels to be covered by each program, a fee shall be assessed by the department. The fee shall be payable by the publisher or

manufacturer even if the publisher subsequently chooses to withdraw a program or reduce the number of grade levels covered. A submission by a publisher or manufacturer may not be reviewed for purposes of adoption, either in a followup adoption or in any other primary or followup adoption conducted thereafter, until the fee assessed has been paid in full.

(f) (1) It is the intent of the Legislature that the fee not be so substantial that it prevents small publishers or manufacturers from participating in a followup adoption.

(2) Upon the request of a small publisher or manufacturer, the State Board of Education may reduce the fee for participation in the followup adoption.

(3) For purposes of this section, “small publisher” and “small manufacturer” mean an independently owned or operated publisher or manufacturer who is not dominant in its field of operation, and who, together with its affiliates, has 100 or fewer employees, and has average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years.

(g) Notwithstanding subdivision (b) of Section 60200, if the department determines that there is little or no interest in participating in a followup adoption by publishers and manufacturers, it shall recommend to the State Board of Education that the followup adoption not be conducted, and the State Board of Education may choose not to conduct the followup adoption.

(h) Notwithstanding Section 13340 of the Government Code, revenue derived from fees charged pursuant to subdivision (c) is hereby continuously appropriated and available to the department from year to year until expended. Revenue derived from fees charged pursuant to subdivision (c) may be used to pay costs associated with any followup adoption and any costs associated with the review of instructional materials.

(i) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

SEC. 4. Section 60242 of the Education Code is amended to read:

60242. (a) The state board shall encumber the fund for the purpose of establishing an allowance for each school district,

which may reflect increases or decreases in enrollment, that the district may use for the following purposes:

(1) To purchase instructional materials adopted by the state board pursuant to Section 60200 or 60200.1 for kindergarten and grades 1 to 8, inclusive, or by the governing board pursuant to Section 60400 for grades 9 to 12, inclusive. A school district may purchase with funds received pursuant to Chapter 3.25 (commencing with Section 60420) instructional materials for the visual and performing arts, foreign language, health, or any other curricular area if those materials are adopted by the state board pursuant to Section 60200 or 60200.1 for kindergarten and grades 1 to 8, inclusive, or by the governing board pursuant to Section 60400 for grades 9 to 12, inclusive, and if the school district certifies that it has provided each pupil with a standards-aligned textbook or basic instructional materials in reading/language arts, mathematics, history/social science, and science.

(2) To purchase, at the district's discretion, instructional materials, including, but not limited to, supplementary instructional materials and technology-based materials, from any source.

(3) To purchase tests.

(4) To bind basic textbooks that are otherwise usable and are on the most recent list of basic instructional materials adopted by the state board and made available pursuant to Section 60200 or 60200.1.

(5) To fund in-service training related to instructional materials.

(6) To purchase classroom library materials for kindergarten and grades 1 to 4, inclusive.

(b) The state board shall specify the percentage of a district's allowance that is authorized to be used for each of the purposes identified in subdivision (a).

(c) Allowances established for school districts pursuant to this section shall be apportioned in September of each fiscal year.

(d) (1) A school district that purchases classroom library materials shall, as a condition of receiving funding pursuant to this article, develop a districtwide classroom library plan for kindergarten and grades 1 to 4, inclusive, and shall receive certification of the plan from the governing board of the school

district. A school district shall include in the plan a means of preventing loss, damage, or destruction of the materials.

(2) In developing the plan required by paragraph (1), a school district is encouraged to consult with school library media teachers and primary grade teachers and to consider selections included in the list of recommended books established pursuant to Section 19336. If a school library media teacher is not employed by the school district, the district is encouraged to consult with a school library media teacher employed by the local county office of education in developing the plan.

(3) To the extent that a school district or county office of education already has a plan meeting the criteria specified in paragraphs (1) and (2), no new plan is required to establish eligibility.

Approved _____, 2005

Governor